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SAN JOSE TOWERS CORP.

8
9 UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 *In re:*

12 Community Towers I, LLC,
13 a Delaware limited liability company,
Employer Tax I.D. No.: 75-2456729,

Case No. 11-58944-SLJ-11

14 Community Towers II, LLC,
15 a Delaware limited liability company,
Employer Tax I.D. No.: 75-2560662,

Case No. 11-58945-SLJ-11

16 Community Towers III, LLC,
17 a Delaware limited liability company,
Employer Tax I.D. No.: 32-0065635,

Case No. 11-58948-SLJ-11

18 Community Towers IV, LLC,
19 a Delaware limited liability company,
Employer Tax I.D. No.: 77-0379075,

Case No. 11-58949-SLJ-11

Cases Jointly Administered

20 Debtor(s).

Chapter 7

21 111 W. Saint John Street, Suite 705
22 San Jose, California 95113

NOTICE OF CORRECTION OF SAN JOSE
TOWERS CORP.'S REPLY IN SUPPORT
OF ITS MOTION FOR
RECONSIDERATION OF AWARD IN
ORDER RE: TURNOVER OF CASH
COLLATERAL

25 Date: April 9, 2014

26 Time: 2:00 p.m.

27 Place: Honorable Stephen L. Johnson
28 280 S. First Street, Room 3099
San Jose, CA 95113

NOTICE OF CORRECTION OF SJTC'S REPLY RE
MOTION FOR RECONSIDERATION

1 TO THE CHAPTER 7 TRUSTEE AND HIS ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on April 2, 2014, secured creditor San Jose Towers Corp.
3 (“SJTC”) filed *San Jose Towers Corp.’s Reply in Support of Its Motion for Reconsideration of*
4 *Award in Order Re: Turnover of Cash Collateral* (the “Reply”) (Dkt. No. 379),¹ replying to the
5 opposition filed by the Chapter 7 Trustee regarding SJTC’s pending motion for recalculation of
6 this Court’s award to SJTC of \$377,992 of its cash collateral.

7 On page 3 of the Reply, at lines 3 and 9, the Reply twice references CIBC’s prior
8 appraisal of \$34.1 million for the Property in response to arguments referencing that figure by the
9 Trustee in the Opposition (*see* Opposition at 1, 17). While it is correct that CIBC previously filed
10 an appraisal report with this Court valuing the Property at \$34.1 million as of October 19, 2011,²
11 which SJTC referenced in the Reply because that is the figure the *Trustee* used in the Opposition,
12 in the interests of honesty and candor SJTC wishes to point out that CIBC filed a subsequent
13 appraisal report with this Court valuing the Property at \$38.8 million as of March 15, 2013.³ This
14 latter appraisal was conducted before SJTC’s discovery of substantial seismic and electrical
15 defects on the Property, among other problems (evidently known to the Debtors’ ultimate owners,
16 John and Rosalie Feece), which SJTC believes will involve substantial repair costs. Even at this
17 value, less the costs of these repairs, and less commissions, transfer taxes, and other closing costs,
18 the potential sale price for the Property is expected to be materially below SJTC’s debt (even
19 excluding default interest and late fees).

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23 ¹ Capitalized terms used herein but not otherwise defined have the meanings used in the
24 Reply.

25 ² *See Declaration of Ken Cantrell in Support of CIBC’s Limited Objection to the Debtors’*
Motion for Use of Cash Collateral (filed on November 21, 2011, Dkt. No. 72, ¶ 7; Ex. A).

26 ³ *See Exhibit A to Declaration of E. Lindsay Gordon in Support of CIBC’s Opposition to*
27 *the Debtors’ Motion to Extend the Stay Termination Date* (filed on August 7, 2013, Dkt. No. 308-
28 4).

1 Dated: April 3, 2014

2 ADAM A. LEWIS
3 VINCENT J. NOVAK
4 KRISTIN A. HIENSCH
5 MORRISON & FOERSTER LLP

6 By: /s/ Vincent J. Novak
7 VINCENT J. NOVAK

8 Attorneys for Secured Creditor
9 SAN JOSE TOWERS CORP.

1 **CERTIFICATE OF SERVICE**

2 I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address
3 is 425 Market Street, San Francisco, California 94105-2482. I am not a party to the within cause,
4 and I am over the age of eighteen years.

5 I further declare that on April 3, 2014, I caused to be served a copy of:

6 **NOTICE OF CORRECTION OF SAN JOSE TOWERS**
7 **CORP.'S REPLY IN SUPPORT OF ITS MOTION FOR**
8 **RECONSIDERATION OF AWARD IN ORDER RE:**
9 **TURNOVER OF CASH COLLATERAL**

10 ☒ **BY ELECTRONIC SERVICE [Fed. Rule Civ. Proc. 5(b)]** by electronically
11 mailing a true and correct copy through Morrison & Foerster LLP's electronic mail
12 system to the e-mail address(es) set forth below, or as stated on the attached service
13 list per agreement in accordance with Federal Rules of Civil Procedure 5(b).

<u>Chapter 7 Trustee</u> Fred Hjelmset fhtrustee@gmail.com CA90@ecfcbis.com	<u>United States Trustee</u> <u>Office of the United States Trustee (SJ)</u> Edwina E. Dowell Edwina.e.dowell@usdoj.gov
<u>Counsel for Chapter 7 Trustee</u> Daniel M. Linchey dlinchey@gsdllaw.com, jrose@gsdllaw.com; gsdlecf@gmail.com	<u>Attorneys for Debtors</u> John Walshe Murray Robert A. Franklin Thomas T. Hwang Robert A. Franklin: Franklin.Robert@Dorsey.com, bobf_94303@yahoo.com Thomas T. Hwang: Hwang.Thomas@Dorsey.com John Walshe Murray: murray.john@dorsey.com, jwmurray@murraylaw.com, johnwalshemurray@hotmail.com

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28 Certificate of Service



BY U.S. MAIL [Fed. Rule Civ. Proc. 5(b)] by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, addressed as follows, for collection and mailing at Morrison & Foerster LLP, 425 Market Street, San Francisco, California 94105-2482 in accordance with Morrison & Foerster LLP's ordinary business practices. I am readily familiar with Morrison & Foerster LLP's practice for collection and processing of correspondence for mailing with the United States Postal Service, and know that in the ordinary course of Morrison & Foerster LLP's business practice the document(s) described above will be deposited with the United States Postal Service on the same date that it (they) is (are) placed at Morrison & Foerster LLP with postage thereon fully prepaid for collection and mailing.

Counsel for Debtors

William L. Conti
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San Marcos, CA 92069

Counsel for Debtors

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50 W San Fernando St #1300
San Jose, CA 95113-2413

I declare under penalty of perjury that the above is true and correct.

Executed at San Francisco, California, April 3, 2014.

John Kline
(typed)

/s/ John Kline
(signature)